

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1135-AIR-E TCEQ ID: RN100214576 CASE NO.: 34201
RESPONDENT NAME: Merisol USA LLC

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Merisol Greens Bayou Plant, 1914 Haden Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Cresylic acid production</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-1621-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149; (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Randy Shilling, SHESQ Program Manager, Merisol USA LLC, 1914 Haden Road, Houston, Texas 77015 Mr. Pieter Potgieter, Acting President, Merisol USA LLC, 1914 Haden Road, Houston, Texas 77015 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 15, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 15, 2007 (NOE)</p> <p>Background Facts: An investigation was conducted in response to an incident notification submitted by the Respondent on February 26, 2007. Two violations were documented.</p> <p>AIR</p> <p>1) Failed to prevent unauthorized emissions. Specifically, an emissions event occurred February 26 through February 27, 2007 when tanks T-362027 and T-362028 overflowed into a spill containment area releasing 9,767 pounds of volatile organic compounds to the atmosphere for a period of 16 hours and 36 minutes. The emissions from Tanks T-362027 and T-362028 are not authorized by the permit. Since this emissions event was avoidable, the demonstrations for an affirmative defense as described in 30 TEX. ADMIN. CODE § 101.222(b) were not met [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>2) Failed to properly report the emissions event. Specifically, the Respondent failed to properly identify the emissions source in the final report of the February 26, 2007 emissions event [30 TEX. ADMIN. CODE § 101.201(b)(1)(D) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$6,681</p> <p>Total Deferred: \$1,336 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,345</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>1) On March 22, 2007, provided training to each operations shift on the importance of header flows;</p> <p>2) On March 30, 2007, implemented a waste removal time line for all portable tanks in response to well shutdowns, as well as a shortened drying time on disposal well filters to improve filter turnaround; and</p> <p>3) On June 21, 2007, provided training and administered a managerial level review to insure proper reporting requirements are met and assured compliance with all the terms and conditions set forth in Section II of this Agreed Order.</p>

Additional ID No(s): HG0486G



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	18-Jun-2007	Screening	13-Jul-2007	EPA Due	
	PCW	15-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Merisol USA LLC
Reg. Ent. Ref. No.	RN100214576
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	34201	No. of Violations	2
Docket No.	2007-1135-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Jessica Rhodes
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **41% Enhancement** **Subtotals 2, 3, & 7** **\$2,091**

Notes

Penalty enhancement due to five NOV's for the same or similar violations, and eight NOV's for unrelated violations.

Culpability

No

0% Enhancement

Subtotal 4 **\$0**

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

10% Reduction

Subtotal 5 **\$510**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance on June 21, 2007.

0% Enhancement*

Subtotal 6 **\$0**

Total EB Amounts	\$26
Approx. Cost of Compliance	\$5,450

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal **\$6,681**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes

Final Penalty Amount **\$6,681**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$6,681**

DEFERRAL

20%

Reduction

Adjustment **-\$1,336**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$5,345

Screening Date 13-Jul-2007

Docket No. 2007-1135-AIR-E

PCW

Respondent Merisol USA LLC

Policy Revision 2 (September 2002)

Case ID No. 34201

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100214576

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	5	25%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 41%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Penalty enhancement due to five NOVs for the same or similar violations, and eight NOVs for unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 13-Jul-2007	Docket No. 2007-1135-AIR-E	PCW
Respondent Merisol USA LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34201	<small>PCW Revision June 26, 2007</small>	
Reg. Ent. Reference No. RN100214576		
Media [Statute] Air		
Enf. Coordinator Jessica Rhodes		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a), Tex. Health & Safety Code §§ 382.085(b), and 382.0518(a)	
Violation Description	Failed to prevent unauthorized emissions. Specifically, an emissions event occurred February 26 through February 27, 2007 when tanks T-362027 and T-362028 overflowed into a spill containment area releasing 9,767 pounds of volatile organic compounds to the atmosphere for a period of 16 hours and 36 minutes. The emissions from Tanks T-362027 and T-362028 are not authorized by the permit. Since this emissions event was avoidable, the demonstrations for an affirmative defense as described in 30 TEX. ADMIN. CODE § 101.222(b) were not met.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input type="text" value="50%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input type="text" value="0%"/>

Matrix Notes	Human health or the environment was exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment <input type="text" value="\$5,000"/>	
<input type="text" value="\$5,000"/>	

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="2"/>	Number of violation days																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%; text-align: center;">daily</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>				daily	<input type="checkbox"/>		monthly	<input type="checkbox"/>		quarterly	<input type="checkbox"/>		semiannual	<input type="checkbox"/>		annual	<input type="checkbox"/>		single event	<input checked="" type="checkbox"/>
	daily	<input type="checkbox"/>																		
	monthly	<input type="checkbox"/>																		
	quarterly	<input type="checkbox"/>																		
	semiannual	<input type="checkbox"/>																		
	annual	<input type="checkbox"/>																		
	single event	<input checked="" type="checkbox"/>																		
		Violation Base Penalty <input type="text" value="\$5,000"/>																		
One single event is recommended.																				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$23"/>	Violation Final Penalty Total <input type="text" value="\$6,550"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,550"/>	

Economic Benefit Worksheet

Respondent Merisol USA LLC
Case ID No. 34201
Reg. Ent. Reference No. RN100214576
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$250	26-Feb-2007	30-Mar-2007	0.1	\$1	n/a	\$1
Remediation/Disposal	\$5,000	26-Feb-2007	30-Mar-2007	0.1	\$22	n/a	\$22
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up containment area and to implement measures designed to prevent product overflow while-filling storage tanks. Date required is based on the day of the emissions event. Final date is date compliance was achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,250

TOTAL

\$23

Screening Date 13-Jul-2007

Docket No. 2007-1135-AIR-E

PCW

Respondent Merisol USA LLC

Policy Revision 2 (September 2002)

Case ID No. 34201

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100214576

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 101.201(b)(1)(D), Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly report the emissions event. Specifically, Merisol failed to properly identify the emissions source in the final report of the February 26, 2007 emissions event.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1%

Matrix Notes

Greater than 70% of the requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

2 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$131

This violation Final Assessed Penalty (adjusted for limits) \$131

Economic Benefit Worksheet

Respondent Merisol USA LLC
Case ID No. 34201
Reg. Ent. Reference No. RN100214576
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	6-Mar-2007	21-Jun-2007	0.3	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to implement procedures to ensure correct reporting of emissions events. Date required is based on the day of the report was submitted. Final date is date compliance was achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$3

Compliance History

Customer/Respondent/Owner-Operator: CN600127583 Merisol USA LLC Classification: AVERAGE Rating: 1.34
 Regulated Entity: RN100214576 MERISOL GREENS BAYOU PLANT Classification: AVERAGE Site Rating: 1.02

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0486G
	AIR OPERATING PERMITS	PERMIT	1254
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008106999
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30595
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50387
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50387
	WASTEWATER	PERMIT	WQ0000485000
	WASTEWATER	PERMIT	TPDES0005584
	WASTEWATER	PERMIT	TX0005584
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW147
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW319
	AIR NEW SOURCE PERMITS	PERMIT	20686
	AIR NEW SOURCE PERMITS	PERMIT	1310A
	AIR NEW SOURCE PERMITS	PERMIT	20120
	AIR NEW SOURCE PERMITS	PERMIT	4348
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0486G
	AIR NEW SOURCE PERMITS	REGISTRATION	75277
	AIR NEW SOURCE PERMITS	REGISTRATION	78532
	AIR NEW SOURCE PERMITS	AFS NUM	4820100028
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30595

Location: 1914 HADEN RD, HOUSTON, TX, 77015 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 13, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 13, 2002 to July 13, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jessica Rhodes Phone: 512-239-2879

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 07/15/2002 (158122)
 - 2 08/22/2002 (158125)
 - 3 08/31/2002 (10291)

4	08/31/2002	(10358)
5	08/31/2002	(9913)
6	08/31/2002	(10272)
7	08/31/2002	(10436)
8	09/24/2002	(158128)
9	10/18/2002	(158130)
10	11/12/2002	(158131)
11	11/13/2002	(15410)
12	12/02/2002	(17626)
13	12/02/2002	(17534)
14	12/30/2002	(158134)
15	02/17/2003	(158110)
16	03/05/2003	(158137)
17	03/17/2003	(22243)
18	03/24/2003	(158113)
19	04/13/2003	(28412)
20	04/17/2003	(158116)
21	04/24/2003	(29167)
22	05/05/2003	(35464)
23	05/05/2003	(35442)
24	05/12/2003	(36314)
25	05/28/2003	(35459)
26	06/20/2003	(295356)
27	06/30/2003	(60224)
28	07/16/2003	(142955)
29	07/17/2003	(158123)
30	08/05/2003	(147370)
31	08/05/2003	(61703)
32	08/22/2003	(119038)
33	08/25/2003	(295357)
34	08/27/2003	(152375)
35	09/15/2003	(248677)
36	09/16/2003	(295358)
37	09/30/2003	(295355)
38	10/14/2003	(295359)
39	11/18/2003	(295360)
40	12/18/2003	(254262)
41	12/18/2003	(252878)
42	12/18/2003	(254063)
43	12/18/2003	(252972)
44	12/29/2003	(295361)
45	01/15/2004	(295362)
46	02/17/2004	(295352)
47	03/19/2004	(295353)
48	03/19/2004	(352097)
49	03/26/2004	(266139)
50	03/26/2004	(266148)
51	04/21/2004	(352107)
52	04/22/2004	(295354)
53	05/24/2004	(352104)
54	05/24/2004	(352098)
55	06/10/2004	(273524)
56	06/10/2004	(273167)
57	06/22/2004	(352099)
58	06/30/2004	(278108)
59	07/22/2004	(352100)
60	08/24/2004	(352101)
61	09/13/2004	(287438)
62	09/13/2004	(287483)
63	09/15/2004	(352102)
64	10/25/2004	(352103)
65	11/05/2004	(337592)
66	11/05/2004	(337608)

130	08/31/2006	(509862)
131	09/18/2006	(520180)
132	10/12/2006	(512490)
133	10/23/2006	(544466)
134	11/02/2006	(517841)
135	11/02/2006	(517873)
136	11/13/2006	(544467)
137	11/29/2006	(511597)
138	12/18/2006	(544468)
139	02/01/2007	(533261)
140	02/09/2007	(517309)
141	03/07/2007	(542943)
142	04/12/2007	(543084)
143	04/12/2007	(543079)
144	04/16/2007	(555416)
145	04/16/2007	(555408)
146	04/20/2007	(555418)
147	05/02/2007	(558753)
148	06/15/2007	(553768)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	09/30/2002	(158130)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2002	(158137)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/20/2003	(22243)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(2)(D)			
Description:	Merisol failed to properly notify the TCEQ Houston Regional Office of a reportable emissions event.			
Date:	04/25/2003	(29167)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PERMIT 20686			
Description:	The regulated entity failed to maintained flue gas temperature above 1300 degrees Fahrenheit for the Tank Vent Flare and PAHR Flare as specified in TCEQ NSR Air Permit No. 20686.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PERMIT 20686			
Description:	Merisol USA LLC. failed to maintained process rate input limits as specified in Table 2 Material balance reports for the C-9 Distillation Column Unit and OXR Unit.			
Date:	05/29/2003	(61703)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(2)(D)			
Description:	Merisol failed to properly notify the TCEQ Houston Regional Office of a reportable emissions event.			
Date:	02/28/2005	(371786)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 117, SubChapter B 117.219(f)(10)			
Description:	Failure to maintain the required records for EPNs P-175 and P-2. Specifically MERISOL failed to maintain the usage records for the most recent 12 months.			
Date:	06/23/2006	(461676)		
Self Report?	NO		Classification	Moderate

67	11/23/2004	(352105)	11/23/2004	(352105)
68	12/20/2004	(352106)	12/20/2004	(352106)
69	12/28/2004	(278033)	12/28/2004	(278033)
70	01/18/2005	(381850)	01/18/2005	(381850)
71	02/11/2005	(348157)	02/11/2005	(348157)
72	02/11/2005	(348154)	02/11/2005	(348154)
73	02/11/2005	(348112)	02/11/2005	(348112)
74	02/11/2005	(348156)	02/11/2005	(348156)
75	02/22/2005	(381848)	02/22/2005	(381848)
76	02/22/2005	(381849)	02/22/2005	(381849)
77	02/28/2005	(371786)	02/28/2005	(371786)
78	03/04/2005	(372857)	03/04/2005	(372857)
79	03/15/2005	(440813)	03/15/2005	(440813)
80	03/30/2005	(373529)	03/30/2005	(373529)
81	03/30/2005	(373525)	03/30/2005	(373525)
82	04/25/2005	(419674)	04/25/2005	(419674)
83	05/18/2005	(419675)	05/18/2005	(419675)
84	06/20/2005	(419676)	06/20/2005	(419676)
85	07/14/2005	(398281)	07/14/2005	(398281)
86	07/14/2005	(398284)	07/14/2005	(398284)
87	07/20/2005	(399527)	07/20/2005	(399527)
88	07/22/2005	(400703)	07/22/2005	(400703)
89	07/22/2005	(440814)	07/22/2005	(440814)
90	07/27/2005	(402051)	07/27/2005	(402051)
91	07/29/2005	(402157)	07/29/2005	(402157)
92	07/29/2005	(402501)	07/29/2005	(402501)
93	08/05/2005	(403452)	08/05/2005	(403452)
94	08/15/2005	(405076)	08/15/2005	(405076)
95	08/17/2005	(405222)	08/17/2005	(405222)
96	08/17/2005	(405538)	08/17/2005	(405538)
97	08/19/2005	(440815)	08/19/2005	(440815)
98	08/22/2005	(406421)	08/22/2005	(406421)
99	08/24/2005	(406553)	08/24/2005	(406553)
100	08/24/2005	(406560)	08/24/2005	(406560)
101	08/29/2005	(418219)	08/29/2005	(418219)
102	08/31/2005	(378377)	08/31/2005	(378377)
103	09/06/2005	(405988)	09/06/2005	(405988)
104	09/08/2005	(418471)	09/08/2005	(418471)
105	09/20/2005	(440816)	09/20/2005	(440816)
106	10/24/2005	(468399)	10/24/2005	(468399)
107	11/16/2005	(468400)	11/16/2005	(468400)
108	11/17/2005	(404572)	11/17/2005	(404572)
109	12/20/2005	(436816)	12/20/2005	(436816)
110	12/20/2005	(436821)	12/20/2005	(436821)
111	12/20/2005	(468401)	12/20/2005	(468401)
112	01/13/2006	(451099)	01/13/2006	(451099)
113	01/13/2006	(438255)	01/13/2006	(438255)
114	01/13/2006	(451100)	01/13/2006	(451100)
115	01/20/2006	(468402)	01/20/2006	(468402)
116	02/17/2006	(468397)	02/17/2006	(468397)
117	03/14/2006	(468398)	03/14/2006	(468398)
118	04/17/2006	(498170)	04/17/2006	(498170)
119	04/17/2006	(460014)	04/17/2006	(460014)
120	04/17/2006	(460019)	04/17/2006	(460019)
121	05/15/2006	(498171)	05/15/2006	(498171)
122	06/13/2006	(498172)	06/13/2006	(498172)
123	06/21/2006	(461676)	06/21/2006	(461676)
124	07/24/2006	(520178)	07/24/2006	(520178)
125	08/03/2006	(484308)	08/03/2006	(484308)
126	08/28/2006	(520179)	08/28/2006	(520179)
127	08/29/2006	(497154)	08/29/2006	(497154)
128	08/29/2006	(497164)	08/29/2006	(497164)
129	08/30/2006	(509854)	08/30/2006	(509854)

Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 8D OP No. O-01254, Provision 11A		
Description:	failure to maintain loop seal to Storage Tanks 163 & 164.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 1 OP No. O-01254, Provision 11A		
Description:	failure to operate the P-2 diesel engine, Boiler No. 2 and 11 storage tanks within the emission limits specified in the Maximum Allowable Emission Rate Table.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(1) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP No. O-01254, Provision 12		
Description:	failure to submit notification required by PBR 106.264.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 5E OP No. O-01254, Provision 11A		
Description:	failure to equip open lines with a cap, plug, blind flange or second valve.		
Date:	09/30/2006 (544466)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006 (511597)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT 20686, Special Condition No. 1		
Description:	Failure to prevent a railcar from overflowing.		
Date:	02/01/2007 (533261)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(1) TWC Chapter 26 26.121(a)(2) TWC Chapter 26 26.121(a)(3) TWC Chapter 26 26.121(a)[G] TWC Chapter 26 26.121(b) TWC Chapter 26 26.121(c) TWC Chapter 26 26.121(d) TWC Chapter 26 26.121(e) TWC Chapter 26 26.121[G]		
Description:	Failure to prevent the unauthorized discharge of storm water from process containment areas.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT EL&MR, Pgs. 2, 2c, & 2d, Nos. 1 & 2		
Description:	Failure to maintain compliance with permit limits for pH and total organic carbon.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)		
Description:	Failure to consistently preserve the storm water samples.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to document the frequency of analysis and sample type on the monthly discharge monitoring reports (DMRs).		

Citation:	30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)		
Rqmt Prov:	PERMIT 20686		
Description:	Merisol USA LLC failed to keep ensure the flare was lit before venting.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 20686		
Description:	Failure to prevent an avoidable emissions event		
Date:	06/30/2006 (520178)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006 (520179)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/04/2006 (484308)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP No. O-01254, Provision 1A		
Description:	failure to check flares for visible emissions.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 112, SubChapter A 112.9(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP No. O01254, Provision 1A		
Description:	failure to maintain the required pH to the C-1 and F-1 Scrubbers.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 8A PERMIT No. 20686, Provision 8F OP No. O-01254, 11A		
Description:	failure to record pH and flow rates to scrubbers.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 6A OP No. O-01254, Provision 11A		
Description:	failure to conduct AVO monitoring for fugitive emissions in required areas.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 14A(3) OP No. O-01254, Provision 11A OP No. O-01254, Provision 1A		
Description:	failure to operate the Tank Vent Flare with a flame to the pilot and a flame at the flare.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 20686, Provision 14B OP No. O-01254, Provision 11A		
Description:	failure to vent storage tanks to the Tank Vent Flare.		
Self Report?	NO	Classification	Minor

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MERISOL USA LLC
RN100214576**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1135-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Merisol USA LLC ("Merisol") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Merisol appear before the Commission and together stipulate that:

1. Merisol owns and operates a cresylic acid production facility at 1914 Haden Road in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Merisol agree that the Commission has jurisdiction to enter this Agreed Order, and that Merisol is subject to the Commission's jurisdiction.
4. Merisol received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Merisol of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Six Hundred Eighty-One Dollars (\$6,681) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Merisol has paid Five Thousand Three Hundred Forty-Five Dollars (\$5,345) of

the administrative penalty and One Thousand Three Hundred Thirty-Six Dollars (\$1,336) is deferred contingent upon Merisol's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Merisol fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Merisol to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Merisol have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Merisol has implemented the following corrective measures at the Plant:
 - a. On March 22, 2007, provided training to each operations shift on the importance of header flows;
 - b. On March 30, 2007, implemented a waste removal time line for all portable tanks in response to well shutdowns, as well as a shortened drying time on disposal well filters to improve filter turnaround; and
 - c. On June 21, 2007, provided training and administered a managerial level review to insure proper reporting requirements are met and assured compliance with all the terms and conditions set forth in Section II of this Agreed Order.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Merisol has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Merisol is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on March 15, 2007. Specifically, an emissions event occurred February 26 through February 27, 2007 when tanks T-362027 and T-362028 overflowed into a spill containment area releasing 9,767 pounds of volatile organic compounds to the atmosphere for a period of 16 hours and 36 minutes. The emissions from Tanks T-362027 and T-362028 are not

As the 1990s unfolded, the distinction was blurred, however, and the line between the two became increasingly difficult to discern.

1. The first step in the process of the investigation is the identification of the problem. This is done by the investigator who is responsible for the investigation. The investigator must identify the problem and the scope of the investigation. The investigator must also identify the objectives of the investigation and the methods to be used. The investigator must also identify the resources available for the investigation.

1. The first step is to identify the key components of the system. This involves understanding the inputs, outputs, and internal processes. For example, in a manufacturing system, the inputs might be raw materials and labor, the outputs might be finished products, and the internal processes might involve assembly and quality control.

in to your individual case and help coordinate with groups to better serve your interests and to ensure that you're getting the best possible outcome for your case.

authorized by the permit. Since this emissions event was avoidable, the demonstrations for an affirmative defense as described in 30 TEX. ADMIN. CODE § 101.222(b) were not met.

2. Failed to properly report the emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(b)(1)(D) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 15, 2007. Specifically, Merisol failed to properly identify the emissions source in the final report of the February 26, 2007 emissions event.

III. DENIALS

Merisol generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Merisol pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Merisol's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Merisol USA LLC, Docket No. 2007-1135-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Merisol. Merisol is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Merisol in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Merisol, or three days after the date on which the Commission mails notice of the Order to Merisol, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


12/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

OCTOBER 29, 2007
Date

PIETER POTGIETER
Name (Printed or typed)
Authorized Representative of
Merisol USA LLC

PRESIDENT (ACTING)
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

